

## **REMARKS**

**[0001]** Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 CFR. § 1.116 as they place the application in better form for appeal, or for resolution on the merits.

**[0002]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The claims are amended herein as follows:

### **Claims pending**

- Before this Amendment: Claim 1-74
- After this Amendment: Claims 1-74

**Non-Elected, Canceled, or Withdrawn claims:** None

**Amended claims:** 1, 2, 9-15, 17, 20, 22-26, 28, 30-32, 34, 35, 40, 41,  
45, 46, 48, 49, 50-54, 56, 59-61, 63-67, 69, 70, and  
72-74

**New claims:** None

## **Substantive Matters**

### **Claim Rejections under § 102 and § 103**

**[0003]** Claims 1-74 are rejected under 35 U.S.C. § 102 and § 103. In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

**[0004]** The Examiner's rejections are based upon the following references alone and in combination:

- **Porter:** *Porter, et al.*, US Patent No. 5,659,539 (issued August 19, 1997);
- **Ishikawa:** *Ishikawa, et al.*, US Patent Application Publication No. 2003/0093803 (Published May 15, 2003);
- **Wing So:** *Wing So*, US Patent No. 5,987,590 (issued November 16, 1999);
- **Bhadkamkar:** *Bhadkamkar, et al.*, US Patent No. 5,893,062 (issued April 6, 1999);
- **Major:** *Major, et al.*, US Patent No. 6,990,512 (issued January 24, 2006);
- **Yeo:** *Yeo*, US Patent No. 6,711,741 (issued march 23, 2004); and
- **Belknap:** *Belknap, et al.*, US Patent No. 5,586,264 (issued December 17, 1996).

## **Overview of the Application**

[0005] The Application describes variable play speed control of media streams. A media stream is received at an accelerated rate with no data being intentionally dropped.

## **Cited References**

[0006] The Examiner cites Porter and Ishikawa as the primary references in the anticipation- and obviousness-based rejections. The Examiner cites Ishikawa, Wing So, Bhadkamkar, Major, Yeo, and Belknap as secondary references in the obviousness-based rejections.

### **Porter**

[0007] Porter describes a digital video delivery system in which a tag file includes information about each of the frames in an audio-visual work. The tag file is used to determine prefix data to be pre-pended to a portion of a video stream in response to a seek command.

### **Ishikawa**

[0008] Ishikawa describes improving the scalability of Video on Demand Systems with VCR functions using the client buffers in a cooperative way.

Wing So

[0009] Wing So describes a PC system that includes a main CPU microprocessor, a file-based operating system, and a DSP microprocessor arranged so that the DSP can execute main CP operations during time intervals in which the main CPI is otherwise occupied, thereby increasing the bandwidth of the system. (*Wing So*, Summary.)

Bhadkamkar

[0010] Bhadkamkar describes enabling the apparent display rate of an audio visual display to be varied.

Major

[0011] Major describes controlling a real time presentation session through a communication network using control features embedded in a predetermined presentation software such as QuickTime Player.

Yeo

[0012] Yeo describes a random access video playback system implemented on a network.

Belknap

[0013] Belknap describes a "video friendly" computer sub-system which enables isochronous data stream delivery in a multimedia environment over traditional interfaces for that industry. (*Belknap*, Summary.)

## **Anticipation Rejections**

[0014] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon Porter**

[0015] The Examiner rejects claims 1, 5-8, 45, 47, 67 and 69 under 35 U.S.C. § 102(b) as being anticipated by Porter. Applicant respectfully traverses this rejection. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

### **Independent Claim 1**

[0016] Applicant submits that Porter does not anticipate this claim because it does not disclose the following features as recited in this claim (with emphasis added):

- “requesting media content at an **accelerated bit rate** from a source, the **accelerated bit rate** being a rate that exceeds a normal playback rate”;

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<sup>1</sup> “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

- “receiving a media stream at the **accelerated bit rate**, wherein the media stream is an uninterrupted data stream of the media content that has no intentionally dropped data”; and
- “rendering all content in the media stream at the **accelerated bit rate**”.

**[0017]** The Examiner states, in the Response to Arguments, that “the Examiner notes a distinction between an accelerated frame rate and an accelerated bit rate or other accelerated transmission rate, such as for burst transmissions”. Office Action, page 2. Claim 1 is amended herein to incorporate such language.

**[0018]** Consequently, Porter does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Independent Claims 45, 67, and 69*

**[0019]** Claims 45, 67, and 69 recite features similar to those of claim 1. Accordingly, at least for the same reasons described above with regard to claim 1, claims 45, 67, and 69 are not anticipated by Porter.

*Dependent Claims 5-8 and 47*

**[0020]** These claims ultimately depend upon independent claims 1 and 45. As discussed above, claims 1 and 45 are allowable. It is axiomatic that any

dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Based upon Ishikawa**

[0021] The Examiner rejects claims 30, 33, 64, and 69 under 35 U.S.C. § 102(a) as being anticipated by Porter. Applicant respectfully traverses this rejection. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

### **Independent Claim 30**

[0022] Applicant submits that Porter does not anticipate this claim because it does not disclose the following features as recited in this claim (with emphasis added):

- “receiving a request from the client to deliver the media stream at **an accelerated bit rate**”; and
- “delivering the media stream to the client at the accelerated bit rate, wherein **no data is intentionally dropped from the media stream to achieve the accelerated bit rate**”.

[0023] The Examiner indicates (Office Action, page 6-7) the following with regard to this claim:

"Regarding claim 30, Ishikawa teaches streaming a media stream to a client at a real time rate (Para. 5);  
receiving a request from the client to deliver the media stream at an accelerate rate, i.e. fast-forward (Para. 5, 58); and  
delivering the media stream to the client at the accelerate rate, wherein no data is intentionally dropped from the media stream to achieve the accelerate rate (Para. 5, 58-59)."

[0024] Applicant respectfully submits that Murray fails to teach or suggest **"an accelerated bit rate"** wherein **"no data is intentionally dropped from the media stream to achieve the accelerated bit rate"**.

[0025] Ishikawa generally describes "moving forwards/backwards in a fast way while exhibiting the movie at a larger speed to the client". [0058]. Ishikawa, however, does not disclose the movie can be played at **"an accelerated bit rate"** wherein **"no data is intentionally dropped from the media stream to achieve the accelerated bit rate"**, as recited in this claim.

[0026] Consequently, Ishikawa does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

#### Independent Claims 64 and 69

[0027] Claims 64 and 69 recite features similar to those of claim 1. Accordingly, at least for the same reasons described above with regard to claim 1, claims 64 and 69 are not anticipated by Porter.



*Dependent Claim 33*

[0028] This claim ultimately depends upon independent claim 30. As discussed above, claim 30 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0029] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

### **Based upon Porter, Wing So, and Bhadkamkar**

[0030] The Examiner rejects claims 2-4, 46, and 70-71 under 35 U.S.C. § 103(a) as being unpatentable over Porter in view of Wing So, and further in view of Bhadkamkar. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### **Dependent Claims 2-4, 46, and 70-71**

[0031] These claims ultimately depend upon independent claims 1, 45, and 69. As discussed above, claims 1, 45, and 69 are allowable. Wing So and Bhadkamkar do not add to the teaching of Porter regarding claims 1, 45, and 49. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Based upon Porter and Major**

[0032] The Examiner rejects claims 9-18, 20-29, 34-36, 39, 48-63, 68, and 72-74 under 35 U.S.C. § 103(a) as being unpatentable over Porter in view of Major. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### **Independent Claim 9**

[0033] Applicant submits that the combination of Porter and Major does not teach or suggest at least the following features as recited in this claim, as amended (with emphasis added):

- “determining if the source can deliver the media stream at **an accelerated bit rate designated by a user**”.

[0034] Accordingly, as amended, the combination of Porter and Major does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

### **Dependent Claims 10-18 and 20-22**

[0035] These claims ultimately depend upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally,

some or all of these claims may also be allowable for additional independent reasons.

*Independent Claim 23*

[0036] Claim 23 is amended herein, rendering the rejection of claim 23 moot. Applicant submits that the references cited do not teach this claim because none of them disclose the following features as recited in this claim (with emphasis added):

- “determining if the media source and a network link can support the **non-real-time bit rate without intentionally dropping data from the media content**”
- “in an even that the media source and a the network link can support the non-real-time bit rate,  
enabling a variable play speed control of a client device; and  
receiving and playing back the media content at the non-real-time rate-;  
**in an even that the media source and the network link cannot support the non-real-time bit rate,**  
**disabling the variable play speed control of the client device;**  
**caching the media stream at the client device; and**

**re-enabling the variable play speed control once the  
cached media stream can enable the non-real-time bit rate"**

*Dependent Claims 24-29*

**[0037]** These claims ultimately depend upon independent claim 23. As discussed above, claim 23 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

*Independent Claim 34*

**[0038]** Claim 34 is amended herein, rendering the rejection of claim 34 moot. Furthermore Applicant submits that, as amended, claim 34 is allowable. For example, none of the cited references teach the claimed, "vary playback speed of a media stream depending on a source of the media stream and on whether the source can deliver the media stream at a requested **bit rate, without intentionally dropping data from the media steam to enable delivering the media stream at the requested rate"**.

*Dependent Claims 35, 36, and 39*

**[0039]** These claims ultimately depend upon independent claim 34. As discussed above, claim 34 is allowable. It is axiomatic that any dependent claim

which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

#### Independent Claim 48

[0040] Claim 48 is amended herein, rendering the rejection of claim 48 moot. Furthermore Applicant submits that, as amended, claim 48 is allowable. For example, none of the cited references teach the claimed, “determining if the source can deliver the media stream at **an accelerated bit rate without intentionally dropping data from the media stream**”.

#### Dependent Claims 49-58

[0041] These claims ultimately depend upon independent claim 48. As discussed above, claim 48 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

#### Independent Claim 59

[0042] Claim 59 is amended herein, rendering the rejection of claim 59 moot. Furthermore Applicant submits that, as amended, claim 59 is allowable.

For example, none of the cited references teach the claimed, “determining if the media source and a network link can support the non-real-time **bit rate without intentionally dropping data from the media content**”.

#### Dependent Claims 60-63

[0043] These claims ultimately depend upon independent claim 59. As discussed above, claim 59 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

#### Dependent Claim 68

[0044] This claim depends upon independent claim 67. As discussed above, claim 67 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, this claim may also be allowable for additional independent reasons.

#### Independent Claim 72

[0045] Claim 72 is amended herein, rendering the rejection of claim 72 moot. Furthermore Applicant submits that, as amended, claim 72 is allowable. For example, none of the cited references teach the claimed, “determining if the

source can deliver the media stream at **an accelerated bit rate without intentionally dropping data from the media stream**".

*Dependent Claims 73 and 74*

[0046] These claims ultimately depend upon independent claim 72. As discussed above, claim 72 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, one or both of these claims may also be allowable for additional independent reasons.

**Based upon Porter, Major, and Yeo**

[0047] The Examiner rejects claims 19, 38, 40-42, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Porter in view of Major, and further in view of Yeo. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

*Dependent Claims 19 and 38*

[0048] These claims ultimately depend upon independent claims 9 and 34, respectively. As discussed above, claims 9 and 34 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also



allowable. Additionally, one or both of these claims may also be allowable for additional independent reasons.

#### Independent Claim 40

[0049] Claim 40 is amended herein, rendering the rejection of claim 40 moot. Furthermore Applicant submits that, as amended, claim 40 is allowable. For example, none of the cited references teach the claimed, “the current play speed control capability determined by the playback module according to a source of the media stream and whether the source can deliver the media stream at **an accelerated bit rate without intentionally dropping data from the media stream**”.

#### Dependent Claims 41, 42, and 44

[0050] These claims ultimately depend upon independent claim 40. As discussed above, claim 40 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Based upon Ishikawa and Mayor**

[0051] The Examiner rejects claims 31 and 65 under 35 U.S.C. § 103(a) as being unpatentable over Ishikawa in view of Major, and further in view of Yeo. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### **Dependent Claims 31 and 65**

[0052] These claims ultimately depend upon independent claims 30 and 64, respectively. As discussed above, claims 30 and 64 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, one or both of these claims may also be allowable for additional independent reasons.

### **Based upon Ishikawa and Porter**

[0053] The Examiner rejects claims 32 and 66 under 35 U.S.C. § 103(a) as being unpatentable over Ishikawa in view of Major, and further in view of Yeo. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 32 and 66

[0054] These claims ultimately depend upon independent claims 30 and 64, respectively. As discussed above, claims 30 and 64 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, one or both of these claims may also be allowable for additional independent reasons.

**Based upon Porter, Major, and Belknap**

[0055] The Examiner rejects claim 37 under 35 U.S.C. § 103(a) as being unpatentable over Porter in view of Major, and further in view of Belknap. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of this claim.

Dependent Claim 37

[0056] This claim depends upon independent claim 34. As discussed above, claim 34 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Based upon Porter, Major, Yeo, and Belknap**

[0057] The Examiner rejects claim 43 under 35 U.S.C. § 103(a) as being unpatentable over Porter in view of Major, in view of Yeo, and further in view of Belknap. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of this claim.

### **Dependent Claim 43**

[0058] This claim depends upon independent claim 40. As discussed above, claim 40 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

### **Dependent Claims**

[0059] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## **Conclusion**

[0060] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

/kaseychristie40559/

Dated: 3/25/2009

Kasey C. Christie (kasey@leehayes.com; 509-944-4732)

Registration No. 40559

Customer No. **22801**

Telephone: (509) 324-9256

Facsimile: (509) 323-8979

www.leehayes.com